REMARKS

At the outset, Applicant thanks the Examiner for the thorough review and consideration of the subject application. The Non-Final Office Action of June 17, 2004 has been received and its contents carefully reviewed.

Claims 1 and 9 are hereby amended and claim 26 is hereby added. Accordingly, claims 1-26 are currently pending. Reexamination and reconsideration of the pending claims is respectfully requested.

In the Office Action, the Examiner rejected claim 9 under 35 U.S.C. § 112, second paragraph as failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention; rejected claims 1, 10-12, and 24 under 35 U.S.C. § 103(a) as being unpatentable over Kubo et al. (U.S. Patent No. 6,124,919) in view of Nakanishi et al. (U.S. Patent No. 6,734,932) and Wu (U.S. Patent App. Pub. No. 2002/0109810); allowed claims 13-23 and 25; and objected to claims 2-8 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the elements of the base claim and any intervening claims.

Applicant greatly appreciates the allowance of claims 13-23 and 25 and the indication of allowable subject matter in claims 2-8.

The rejection of claim 9 under 35 U.S.C. § 112, second paragraph as failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention, is respectfully traversed and reconsideration is requested.

The Examiner rejected claim 9 for reciting the element "the alignment layer," for which there is insufficient antecedent basis. Applicant hereby amends claim 9, submits claim

9 now more clearly describes the subject matter regarded as the invention, and requests withdrawal of the present rejection under 35 U.S.C. § 112, second paragraph.

The rejection of claims 1, 10-12, and 24 under 35 U.S.C. § 103(a) as being unpatentable over Kubo et al. in view of Nakanishi et al. and Wu is respectfully traversed and reconsideration is requested.

With respect to the rejection of independent claim 1, the Examiner cites Kubo et al. as disclosing "a lower polarization plate 9 as light absorption layer, electrodes 4 and 6, color filters 12, retardation film 10, polarizing plate 11 and diffusing plate 15." Applicant respectfully submits, however, that Kubo et al. fails to disclose at least a cholesteric liquid crystal color filter as recited in claims 1 and 24. For at least this reason, Applicant respectfully requests withdrawal of the present rejection under 35 U.S.C. § 103(a).

Continuing the rejection of claim 1, the Examiner acknowledges Kubo et al. fails to disclose "the required holographic film." Attempting to cure the deficiency of Kubo et al., the Examiner cites Wu as disclosing "[a] holographic film 60... disposed on the polarizing plate 58." Concluding, the Examiner asserts it would have been obvious to "include the required holographic film and the angle of incident/polarization plate relationship in Kubo et al. as taught by Wu... to have a liquid crystal display device with higher performance."

According to M.P.E.P. § 2144.02, the rationale to support a rejection under 35 U.S.C. § 103 may rely solely on logic and sound scientific principle. However, when an Examiner relies on a scientific theory, evidentiary support for the existence and meaning of that theory must be provided.

Therefore, assuming *arguendo* Wu discloses "the required holographic film" it appears, from the Examiner's theory, that incorporating "the required holographic film of Wu

into Kubo et al. would enable one of ordinary skill in the art to obtain "a liquid crystal display device with higher performance," and thus render the claimed invention obvious.

Applicant respectfully submits, however, evidentiary support for the existence and meaning of the theory outlined above must be, but has not been, provided. In the absence of such support, Applicant respectfully submits Kubo et al. and Wu have merely been combined using the presently claimed invention as a template via improper hindsight reasoning.

With respect to the rejection of independent claim 24, the present application was filed on December 27, 2001. Nakanishi et al., however, was filed on January 7, 2002. Consequently, Applicant respectfully submits Nakanishi et al. is not available as prior art against the present application and requests withdrawal of the present rejection under 35 U.S.C. § 103(a).

Applicants believe the foregoing amendments place the application in condition for allowance and early, favorable action is respectfully solicited.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at (202) 496-7500 to discuss the steps necessary for placing the application in condition for allowance. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136, and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911. A duplicate copy of this sheet is enclosed.

Dated: September 7, 2004

Respectfully submitted,

Kurt M. Eaton
Registration No.: 51,640
MCKENNA LONG & ALDRIDGE LLP
1900 K Street, N.W.
Washington, DC 20006
(202) 496-7500
Attorney for Applicant